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PARTNERSHIP — RIGHTS, DUTIES, AND LIABILITIES OF PARTNERS *INTER SE* — RIGHT TO CONTRIBUTION FOR COSTS OF SUCCESSFUL DEFENSE OF UNWARRANTED SUIT. — A partnership, consisting of plaintiff and defendant, acted as broker in effecting a sale of realty. Subsequent to the dissolution of the partnership, the purchaser of the realty brought an action against the plaintiff individually for alleged fraudulent misrepresentations connected with the sale of the land, an action which the present plaintiff successfully defended. The plaintiff seeks to recover from the defendant a proportionate share of the costs of his defense. To a complaint containing substantially the above facts, defendant demurred. *Held*, that the demurrer be sustained. *Hadley* v. *Coffin*, 176 N. W. 885 (Iowa).

Although treatises on the law of Partnership do not adequately deal with the problem here presented, the case can be satisfactorily reasoned out on principles of agency. The plaintiff was undoubtedly not only a partner, but also an agent of the partnership. See *Midland Nat. Bank* v. *Schoen*, 123 Mo. 650, 27 S. W. 547; STORY, PARTNERSHIP, 3 ed., § 1. As such agent he had an undisputed right to be indemnified by his principal — the firm — for such losses as proximately resulted from the relationship. *Adamson* v. *Jarvis*, 4 Bing. 66; *Guirney* v. *St. Paul R. R. Co.*, 43 Minn. 496, 46 N. W. 78. And the fact that the relation has terminated when the loss is suffered should not derogate from this principle of reimbursement. *D'Arcy* v. *Lyle*, 5 Binn. (Pa.) 441. Accordingly if the plaintiff could have established the causal connection between his agency and the loss to which he was subjected, his right to reimbursement by the firm, and therefore of contribution against his partner, would have been clear. Of course, the difficulty largely lies in establishing that the plaintiff's loss was a proximate consequence of the execution of the agency. See *First Nat. Bank* v. *Tenney*, 43 Ill. App. 544; 1 MECHEM, AGENCY, 2 ed., §§ 1603 *et seq.* In the principal case, it would seem that the factor of proximate causation was much too arguable to lay the complaint open to a demurrer. *Cf. D'Arcy* v. *Lyle*, *supra; First Nat. Bank* v. *Tenney*, *supra.*

PUBLIC OFFICERS — JUDGES — LIABILITY OF JUSTICES OF PEACE FOR MINISTERIAL ACTS. — The defendants, justices of the peace, were required by statute to forward the record of cases they had tried to the upper court on notice of appeal. The plaintiff in this action gave such notice to the defendants who failed to forward the papers. Not having the record, the upper court dismissed the appeal. The plaintiff now sues the defendant for the loss which resulted. *Held*, that the defendants are liable. *Kowalenko* v. *Lewis and Lepine*, (1920) 3 W. W. R. 119.

By the common law public officers are liable for misfeasance and nonfeasance to persons injured thereby. *Wright* v. *Shanahan*, 149 N. Y. 495, 44 N. E. 74. This rule is subject to the qualification that judicial officers, acting within their jurisdiction, enjoy absolute immunity for acts of a judicial nature. *Henke* v. *McCord*, 55 Ia. 378, 7 N. W. 623. Statements in the books that justices of the peace enjoy a lesser degree of immunity than judges of superior courts are largely founded on *dicta*. 2 SHEARMAN & REDFIELD, NEGLIGENCE, 6 ed., § 303. The modern tendency, at any event, is to afford all judges the same broad protection. *Broom* v. *Douglass*, 175 Ala. 268, 57 So. 860. All judicial officers, however, are liable for ministerial acts. See *People* v. *Bush*, 40 Cal. 344, 346. The question in every case of this type is, therefore, whether the act is ministerial or judicial. An act which on a given set of facts must be performed in a prescribed manner, according to legal mandate, is ministerial. *Hamma* v. *People*, 42 Col. 401, 94 Pac. 326. Though the principles applicable are simple, it is often difficult to apply them to the particular facts. *Cf. Wertheimer* v. *Howard*, 30 Mo. 420, and *Briggs* v. *Wardell*, 10 Mass. 356. As the act in the principal case is clearly ministerial, the defendants are liable on ordinary tort principles.